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2 Deputy County Counsel
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Exempt per Government Code §6103

10 Attorneys for Defendant CSA 18 Special Districts Public Works

11
12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 LYNN MACY, as an individual,

15 Plaintiff,

16 v.

17 CSA-18 SPECIAL DISTRICTS
18 PUBLIC WORKS, a public entity,

19 Defendants.

20 Case No. 5:24-cv-00902-AB-SHK

21
22 **OBJECTION TO PLAINTIFF'S
23 IMPROPER SERVICE OF A SECOND
24 SECOND AMENDED COMPLAINT ON
25 DEFENDANT**

26 Case Assigned to: Honorable District Court
27 Judge Andre Birotte Jr.

28 Referred to: Honorable Magistrate Judge
29 Shashi H. Kewalramani

30
31 **TO THE HONORABLE COURT, PLAINTIFF, AND HER ATTORNEY OF
32 RECORD, IF ANY:**

33
34 **PLEASE TAKE NOTICE** that Defendant CSA-18 SPECIAL DISTRICTS
35 PUBLIC WORKS ("Defendant") hereby submit its objection to Plaintiff Lynn Macy's
36 ("Plaintiff") improper and premature electronic service of an unfiled second Second
37 Amended Complaint ("second SAC") served on Defendant on August 29, 2024

1 (“Objection”) while the Magistrate’s Report and Recommendation (“R&R”) addressing
2 the merits of the first amended complaint (“FAC”) is pending review by the District Court
3 Judge. Defendant hereby preserves its right to respond to any amended complaints.

4 **I.**

5 **RELEVANT BACKGROUND AND OBJECTION**

6 This lawsuit arises from Plaintiff Lynn Macy’s (“Plaintiff”) allegations in her First
7 Amended Complaint (“FAC”) that Defendant CSA-18 Special Districts Public Works
8 (“Defendant”) intentionally “deprived the interests” of Plaintiff and her property by: (1)
9 trespassed onto Plaintiff’s private property; (2) prevented Plaintiff from driving on the
10 property due to Defendant’s failure to repair roads; (3) Defendant’s failure to file her claim
11 with the County; (4) denied Plaintiff’s claim with the County without giving Plaintiff an
12 opportunity to prove her case; (5) removed Plaintiff’s cables, which caused Plaintiff’s
13 glass lights to be damaged and left the broken glass lights all over her property; (6) dumped
14 waste on Plaintiff’s property; and (7) removed signs, cut trees, stolen fences, and refused
15 to repair Burnt Mill Canyon Road. FAC ¶¶ 6–7.

16 Plaintiff filed her initial complaint on April 26, 2024, and a FAC on May 30, 2024.
17 Dkts. 1, 11. Defendant filed a Fed. R. Civ. P. 12(b) Notice of Motion and Motion to
18 Dismiss Plaintiff’s FAC on June 20, 2024. Dkt. 15. On August 15, 2024, the Magistrate
19 Judge issued a report and recommendation recommending:

20 (1) The Court grant Defendant’s Motion to Dismiss;
21 (2) Dismiss the FAC without prejudice with leave to amend;
22 (3) Order that Plaintiff has 21-days from the date of the Order Accepting this Report
23 and Recommendation to file an amended complaint, if she wishes to pursue this
24 action further. Dkt. 35.

25 On August 23, 2024, Plaintiff improperly and prematurely filed a second amended
26 complaint (“SAC”). Dkt. 37. On August 27, 2024, Plaintiff filed a Request to Strike the
27 SAC (“Request”). Dkt. 38. On August 29, 2024, Plaintiff electronically served Defendant

1 with an unfiled Second SAC, which is different from the first filed SAC. See Exhibit 1.
2 On August 30, 2024, the Magistrate Judge issued an order granting Plaintiff's request to
3 strike the (first) SAC as the filing was premature. Dkt. 39.

4 Defendant objects to Plaintiff's service of a Second SAC on Defendant on August
5 29, 2024 on the following grounds:

6 1. The District Judge assigned to this case has not yet addressed the findings and
7 recommendations set forth in the Magistrate Judge's R&R. Consequently, any
8 SAC filed that supersedes Plaintiff's FAC, while an R&R addressing the merits
9 of Plaintiff's FAC is pending review by the District Judge, is premature.

10 Accordingly, Plaintiff's service of a Second SAC on August 29, 2024 on Defendant
11 is improper and premature since the District Judge has not yet addressed the Magistrate's
12 R&R. Defendant preserves its right to respond to any amended complaints.

13 **II.**

14 **CONCLUSION**

15 For the reasons presented above, Defendant respectfully objects to Plaintiff's
16 electronic service of a Second SAC on Defendant.

17 DATED: August 30, 2024

18 Respectfully submitted,
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21 TOM BUNTON
22 County Counsel

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PROOF OF SERVICE

I am employed in the County of San Bernardino, State of California. I am a citizen of the United States, employed in the County of San Bernardino, State of California, over the age of 18 years and not a party to nor interested in the within action. My business address is 385 North Arrowhead Avenue, Fourth Floor, San Bernardino, CA 92415-0140.

On August 30, 2024, I served the following documents (*specify*): **OBJECTION TO PLAINTIFF'S IMPROPER SERVICE OF SECOND SECOND AMENDED COMPLAINT ON DEFENDANT**

I served the documents on the persons below, as follows:

Lynn Macy, in Pro Per
P.O. Box #103
Twin Peaks, CA 92391
Tel: 909-744-8480
Email: 1611Bible.us@gmail.com

By United States Mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

By e-mail or electronic transmission. Pursuant to California *Code of Civil Procedure* § 1010.6(e), per agreement of parties, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America, that the above is true and correct.

DATED: August 30, 2024

Josephine DuSold
Josephine DuSold, Declarant